

Submitted testimony from Ken Vrana, Maritime Heritage Consulting
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I do have some initial comments for you, however, regarding House Bills No. 4042, 4043, and 4044 based on review of *A Roadmap to a New Environmental Management Model for Michigan*, prepared by the Environmental Advisory Council (2009), my professional experiences, and discussions with two other consultants actively involved in compliance with state environmental law and administrative rules. My comments are as follows:

1. Key goals of regulatory reform in Michigan should be the enhancement of transparency *and* accountability in agency decision-making, particularly in the case of environmental project review and permitting. There are too many cases where the agendas of political figures or the personal preferences of state employees with decision-making responsibilities negatively impact the permitting process. Current examples include the Eagle Mine Project at Yellow Dog Plains in the UP, Jean Klock Park re-development in Benton Harbor, and the *Le Griffon* Project in northern Lake Michigan. Each of these situations have led to legal actions where frankly, everyone seems to lose.
2. In 2009, the Environmental Advisory Council issued its observations, principles and recommendations for new environmental management in Michigan. The Council was comprised of representatives from several different stakeholder groups, and was charged with a nonpartisan mission. In general, the Council "believes the diminishing effectiveness of the current model and the lack of resources requires transition to a new model of environmental management." It recommends a multi-faceted and wholistic approach that includes more collaboration with stakeholders, a focus on outcomes rather than meeting "process-based" requirements, priorities grounded in relative risk, and incentives for innovation and voluntary environmental stewardship. Even though produced during the waning years of the Granholm administration, this report deserves some attention by all current lawmakers intent on re-structuring and re-engineering the MDNRE to be more responsive and successful in dealing with today's environmental, economic, and social-political challenges.
3. Collectively, House Bills 4042 and 4044 take a step toward making the MDNRE more accountable through the requirement of (1) "scientific rationale" in denial of a permit, and (2) technical analyses prior to rule-making (i.e. cost-benefit and fiscal). House Bill 4043 requires consultation prior to civil enforcement for an alleged permit violation, thereby providing an opportunity of less-costly *and* more collaborative resolution of the issue. In and of themselves, however, these bills will *not* be enough to spark the more dramatic improvements needed in leadership and organizational culture within the MDNRE, as indicated by the report of the Environmental Advisory Council (2009).
4. *House Bill 4042* -- the definition of "scientific" is critical and needs to include the social sciences (especially applied sociology and anthropology) as well as the physical sciences. I believe that one of the larger issues in environmental management nationwide is the absence or lack of the social sciences in informing policy-makers and agency administrators on decisions affecting stakeholders and other publics. In addition, keep in mind

that "science-based decision making within the existing legal frameworks does not necessarily lead to a single 'correct' answer to complex environmental problems. Rather, science can inform collaborative decision-making and the selection of a desired outcome in a given case among the range of outcomes allowed by law" (EAC 2009:8). In my perspective, this means that science is not the "do all - end all" of environmental decision-making, but there is no question that current, scientific findings/rationale need to be seriously considered by agencies in making and defending their decisions.

5. *House Bill 4043* -- there needs to be consequences for the regulatory agency, or the requirement for agencies to consult with permittees could be easily delayed or in other ways derailed.

6. *House Bill 4044* -- the cost-benefit and fiscal analyses could actually decrease efficiencies in rule-making if not professionally conducted with explicit standards. In particular, these analyses need to apply current techniques approved by several federal agencies for inclusion of *nonmarket values* in the estimation of benefits-costs and fiscal parameters. Former techniques in cost-benefit and fiscal analyses heavily weighted market-derived values, and therefore, were subject to serious biases, and in turn, political in-fighting.

Anyway, I would be pleased to assist Representative MacMaster more on this important topic of regulatory reform during the months ahead. I have a rather unique perspective from a combination of my academic training in the applied social sciences as well as substantive practical experience in regulatory compliance in my former employment with the federal government and current employment as a consultant working with clients on Great Lakes and water-related issues.

Sincerely,

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